

REMARKS

Claims 12 3-13, 15-25, 27-41, 43-56 are currently pending. Claims 13 and 41 are allowed. Claims 4, 18, 19, 23, 24, 27, 45, 46, 50, have now been amended. Claims 16, 17, 20-22, 42-44, 47-49 have now been canceled. Applicants respectfully assert that all amendments are supported by the original disclosure and do not introduce new matter

Claim Rejections - 35 USC §112

The Examiner has rejected claims 4, 17, 27, 44 under 35 U.S.C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner contends that claims 4 and 27 explicitly encompass administering a DNA sequence by administering an expression vector that encodes the DNA sequence, while claims 17 and 44 explicitly encompass administering an mRNA by administering an expression vector encoding a DNA sequence encoding the mRNA.

Therefore, Examiner contends that it would not be clear to one of ordinary skill in the art how an "expression vector" could encode a DNA sequence that further encodes a mRNA sequence as the term "encode" would be understood to mean a sequence that is derived from the vector sequence such as by transcription or translation.

The Applicants have now amended the claims to clarify the use of vectors as using an expression vector that comprises a DNA sequence which encodes a messenger RNA or comprises an expression vector that encodes the messenger RNA.

Claim Objections

Claims 1, 5-9, 11, 12 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 16-24. Claims 27-34, 36-40 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 43-56.

In the instant case claim 1 is drawn to a method comprising administering a DMA sequence to a cell wherein the DNA sequence encodes a functional mRNA sequence, while claims 16 is drawn to a method of administering a functional mRNA sequence to a cell by

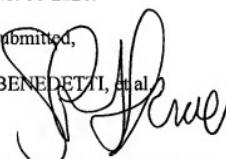
administering an expression vector which produces the functional mRNA sequence. Claim 17 indicates that the expression vector encodes a DNA sequence which encodes the mRNA. Therefore, the Examiner contends that claims 1, 16 and 17 are substantially duplicate claims. Claims 5-9, 11, 12 depend from claim 1 and mirror claims 18-24 which depend from claim 17. Similarly, the Examiner contends that, claims 27, 43 and 44 are substantially duplicate claims. Accordingly, claims 3, 4, 10, 35 are objected to for depending on objectionable claims.

The Applicants have now amended the claims to clarify the use of vectors as using an expression vector that comprises a DNA sequence which encodes a messenger RNA or comprises an expression vector that encodes the messenger RNA. The claims have now also been amended to eliminate claims that are substantially duplicate claims. Accordingly, this rejection has been overcome and should be withdrawn.

Conclusion

Based on the foregoing amendments and remarks, it is submitted that the present application is now in form for allowance. Therefore, early reconsideration and allowance of the claims, as currently pending, are solicited.

The Commissioner for Patents is authorized to charge any deficiency or credit any overpayment to Frost Brown Todd LLC Deposit Account No. 06-2226.

Respectfully submitted,

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By _____ /

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